



Court File No: S1-GS-28988

SUPREME COURT OF PRINCE EDWARD ISLAND

(GENERAL SECTION)

THE HONOURABLE JUSTICE WAYNE D. CHEVERIE

DATED: APRIL 1, 2020

BETWEEN:

ATTORNEY GENERAL OF PRINCE EDWARD ISLAND

APPLICANT;

AND:

PERSONS UNKNOWN

RESPONDENTS;

AND:

ISLAND REGULATORY AND APPEALS COMMISSION

INTERVENOR.

ORDER

THIS APPLICATION made by the Attorney General of Prince Edward Island ("Attorney General") for an order suspending the enforcement of all writs and orders to evict individual tenants from their residential premises during the 2019 coronavirus ("COVID-19") pandemic, made without notice, was heard by teleconference on April 1, 2020 at the Sir Louis Henry Davies Law Courts, 42 Water Street, Charlottetown, Prince Edward Island, in the presence of Meaghan S. Hughes and Mitchell O'Shea, counsel for the applicant, Attorney General, and Jonathan M. Coady, Q.C. counsel for the intervenor, Island Regulatory and Appeals Commission ("Commission");

UPON READING the notice of application filed by the Attorney General and the affidavits of Clare Henderson affirmed on March 27, 2020 and of Dr. Heather Morrison affirmed on March 31, 2020;

UPON READING the factum of legal argument filed by counsel for the Commission and dated April 1, 2020;

AND UPON BEING SATISFIED that the Supreme Court of Prince Edward Island ("Court") has common law and equitable jurisdiction to control its own processes and officials;

AND UPON BEING SATISFIED that the Court has inherent jurisdiction to render assistance to a subordinate statutory body to ensure the proper administration of justice in the Province of Prince Edward Island and to avoid an injustice where such a body is unable, by virtue of the terms of its enabling legislation, to take action in relation to such injustice;

1. THIS COURT GRANTS leave for the Attorney General to bring this application *ex parte* and without service to unknown persons affected by this Order in accordance with Practice Direction No. 17 issued by the Court. This is a matter of emergency.
2. THIS COURT ORDERS that, subject to clause 3 of this Order, enforcement of the following orders and writs by any person, including but not limited to a sheriff, landlord or representative of a landlord, shall be and is hereby suspended in accordance with the terms of this Order:
 - a. writs issued by the Court pursuant to the Rules of Civil Procedure in execution of an order registered in the Court for the eviction of an individual tenant from his or her residential premises, or for the delivery of possession of residential premises, and issued by the Director of Residential Rental Property ("Director") or the Commission pursuant to the *Rental of Residential Rental Property Act*, R.S.P.E.I. 1988, c. R-13.1;
 - b. orders registered in the Court for the eviction of an individual tenant from his or her residential premises, or for the delivery of possession of residential premises, and issued by the Director or the Commission pursuant to the *Rental of Residential Rental Property Act*; and
 - c. any other orders for the eviction of an individual tenant from his or her residential premises, or for the delivery of possession of residential premises, and issued by the Director or the Commission pursuant to the *Rental of Residential Rental Property Act*.
3. THIS COURT ORDERS that, in exceptional cases of urgency or emergency, leave from the Court may be obtained upon motion by any person for the enforcement of a writ or order suspended by this Order. This motion shall be made in writing and filed, with proof of service upon the Attorney General, in accordance with any interim procedure published by the Court for the hearing of urgent or emergency matters during the COVID-19 pandemic. The judge reviewing the motion to determine whether the matter is an urgent or emergency matter may dispose of the motion in writing. Notice of any such motion shall be delivered to the Attorney General in writing in advance of the motion being filed in the Court.
4. THIS COURT STATES that, for the avoidance of any confusion, any person seeking an order from the Director or the Commission pursuant to the *Rental of Residential Rental Property Act* during the COVID-19 pandemic shall follow the procedure in the *Rental of Residential Rental Property Act* and any interim procedure published by the Director or the Commission for the hearing of urgent or emergency matters during the COVID-19 pandemic. Subject to clause 3 of this Order, only the enforcement of any such order obtained from the Director or the Commission is suspended in accordance with the terms of this Order.
5. THIS COURT ORDERS that any person affected by this Order may make a motion to the Court to set aside or vary this Order in accordance with Rule 38.12 of the Rules of Civil Procedure and any interim procedure published by the Court for the hearing of urgent or emergency matters during the COVID-19 pandemic.
6. THIS COURT ORDERS that a copy of this Order shall, at the sole cost and expense of the Attorney General, be published on the website maintained by the Department of Health and Wellness for the COVID-19 pandemic, on the website maintained by the Director and the Commission, and in at least one newspaper in general circulation in the Province of Prince Edward Island.

7. THIS COURT ORDERS that this Order may be rescinded by the Court at any time on its own initiative, with notice to the Attorney General, and, unless otherwise varied by the Court, shall remain in force only for the interim period while the Court is hearing and deciding urgent and emergency matters during the COVID-19 pandemic. Notice that this Order has been rescinded or otherwise expired shall be published forthwith by the Attorney General in the same manner as described in clause 6 of this Order.

Daye D. Chew
J.